

Before the  
Respiratory Care Practitioners Governing Board  
Office of Allied Health Professionals  
Concord New Hampshire 03301

In the matter of: )  
**Richard R. Belanger, RCP** )  
(Adjudicatory Proceedings) )

**DECISION AND ORDER**

Before the New Hampshire Respiratory Care Practitioners Governing Board is an adjudicatory proceeding involving a disciplinary action regarding Richard R. Belanger, RCP, the Respondent.

**By the Board**

James R Daley, RCP Chairperson and Hearing Officer, Mark Favorite, RCP, Sean Kenneally, RCP, D. Thomas Akey, MD, Governing Board Members and Veronique C. Soucy, Administrative Assistant to the Respiratory Care Practitioners Governing Board.

**Appearances:**

Attorney Catherine L. Bernhard for the Prosecution, Veronique C. Soucy, Administrative Assistant, Carl Rod, former board member/Investigator; Peter Grasso, R.Ph., Dennis Desmond, R.Ph., Richard R. Belanger, RCP ("The Respondent") and Attorney Edward A. Haffer, for the Respondent.

**Background Information**

The Respondent was issued a conditional license # 0395 in January 24, 1993 to December 31, 1996 for the practice of respiratory care. The Respondent satisfied the conditions of the conditional license, and was issued an unrestricted license for the practice of respiratory care in

January of 1997. The Respondent also held a New Hampshire Pharmacist license, and is currently licensed and practicing as a Respiratory Care Practitioner in the state of Maine. Respondent works at Southern Maine Medical Center, Route 111 in Biddeford, Maine.

On October 21, 2002, during a phone call with Peter Grasso, R. Ph., The New Hampshire Respiratory Care Practitioners Governing Board ("The Board") was made aware of an investigation and disciplinary action taken by the Board of Pharmacy in regard to the Respondent's pharmaceutical license. Following the receipt of the documents relative to the Board of Pharmacy investigation, the Board performed a review of The Respondent's respiratory license file and determined that an informal investigation be initiated. The reason for the determination was that some of the questions on the 2001 renewal form were not answered appropriately. The 2001 renewal form encompassed questions concerning the prior 27 months to which the Respondent answered: "no." However, the review revealed that within the time frame of the prior 27 months, the Respondent was under investigation, had been terminated from employment, and been reinstated following agreement to participate in a drug rehabilitation program. The Respondent's responses therefore conflicted with the Board of Pharmacy's actions.

The Administrative Prosecutions Unit of the Justice Department was asked to conduct an investigation. Board Member Carl Rod was named liaison and recused from the Board. A Report of Investigation dated December 8, 2003 was provided for the Board's review and action at the meeting of December 11, 2003. The report reflected The Respondent's intention to not renew his license in 2003. In its conclusion, the report recommended that the Board impose some form of disciplinary action for withholding relative information on the 2001 renewal application. The

Board approved the recommendation of the report and a Notice of Hearing dated December 11, 2003 was sent to The Respondent's attorney via certified and regular mail. An amended Notice of Hearing dated December 15, 2003, signed and dated December 11, 2003 was sent to The Respondent's attorney because the original was not signed and dated. Board Member Carl Rod's term expired during the course of the investigation. Mr. Rod continued to serve the Board as liaison to conclude the investigation and was a witness for the prosecution.

This proceeding commenced on January 8, 2004 at 9:00 a.m., at the Board's office, 2 Industrial Park Drive, Concord New Hampshire. As stated in the Notice of Hearing, the issues to be determined are:

- A. Whether Richard R. Belanger engaged in professional misconduct in the practice of respiratory care contrary to RSA 328-F: 23, IV (a) and/or RSA 328-F: 23, IV (d) and/or RSA 328-F: 23, IV (k) and American Association for Respiratory Care, (hereinafter "AARC") Statement of Ethics and Professional Conduct stating that he shall "refuse to participate in illegal or unethical acts" by failing to include material facts on his 2001 Renewal Form relating to his participation in PharmAssist, out-patient therapy, AA/NA and to be subjected to random urinalysis to screen for the unauthorized use of controlled substances in response to question number four (4) on the 2001 Renewal Form; and/or
- B. Whether Richard R. Belanger engaged in professional misconduct in the practice of respiratory care contrary to RSA 328-F:23, IV (a) and/or

RSA 328-F:23, IV (d) and/or RSA 328-F:23, IV (k) and AARC Statement of Ethics and Professional Conduct stating that he shall "refuse to participate in illegal or unethical acts" by failing to include material facts on his 2001 Renewal Form relating to his termination from employment at Androscoggin Valley Hospital in December 2000 in response to question number eight (8) of the 2001 Renewal Form; and/or

- C. If any of the above allegations are proven, whether and to what extent The Respondent should be subjected to one or more of the disciplinary sanctions authorized by RSA 328-F: 23.

The board considered testimony and accepted into evidence Hearing Counsel Exhibits 1 through 5. Exhibits 4, 7 and 8 were withdrawn by Hearing Counsel.

**- Hearing -**

Attorney Haffer presented a Motion to Dismiss. The Motion claimed that since the Respondent did not renew his Respiratory Care Practitioner's license in 2003 he is therefore no longer under the Board's jurisdiction. Pursuant to Allied Health Administrative Rule 502.02 (b) Hearing Officer James Daley denied the motion. A motion with a witness list and exhibits have been filed by Attorney Catherine Bernhard and accepted.

Peter Grasso, Chief Compliance Investigator for the Board of Pharmacy was sworn in. Mr. Grasso testified about The Respondent's pharmacy license. Mr. Grasso testified to his involvement investigating allegations of The Respondent's misappropriation of controlled substances. In the fall of 2002, Mr. Grasso received a letter alleging that The Respondent had

misappropriated controlled substances at Androscoggin Valley Hospital (AVH). As no hospital inventory was misappropriated, there was no Federal Control Substance report filed. However, in September of 2002, Mr. Belanger was terminated from his position.

Mr. Grasso testified further that in the year 2000 The Respondent had been terminated for a similar situation. The Respondent was rehired once he became involved with a substance abuse program. See Exhibit 2.<sup>1</sup>

Veronique C. Soucy, the Administrative Assistant, for the Office of Licensed Allied Health Professionals, testified to her duties of creating forms and overseeing licenses and license renewals. Ms. Soucy explained the renewal cycle.

Ms. Soucy examined The Respondent's renewal application form. She confirmed that The Respondent signed the form on November 3, 2001 and that it was date-stamped as received on November 16, 2001. The Respondent was forwarded his renewal card as his completed application met the renewal requirements.

Ms. Soucy testified that on The Respondent's renewal application in question number four (4), as to having been treated for misuse of any chemical substance, the "No" column was marked. Ms. Soucy testified that on The Respondent's renewal application in question number eight (8), as to employment being limited, suspended or revoked, the "No" column was marked. See Exhibit 3.<sup>2</sup>

Ms. Soucy testified to a letter from the Respiratory Care Practitioners Board to the Pharmacy Board, dated December 19, 2002, requesting more information on their recent action concerning The Respondent's pharmacy license. See Exhibit 4.<sup>3</sup>

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<sup>1</sup> Exhibit 2- letter dated October 21, 2002 from AVH to Peter Grasso of Pharmacy Board (formerly Exhibit 5)

<sup>2</sup> Exhibit 3. – The Respondent's renewal application (formerly Exhibit 1).

<sup>3</sup> Exhibit 4 – Letter dated 12.19.03 from Respiratory Care Practitioners Governing Board to the Pharmacy Board (formerly Exhibit 6).

Ms. Soucy testified that in September of 2003 the license renewal packets were mailed out. She further testified that in November 2003 The Respondent mailed back his packet indicating that he did not wish to renew his New Hampshire license to practice respiratory care. Ms. Soucy confirmed that this was the only "communication" in the past 12 months. Ms. Soucy testified that The Respondent could no longer practice or provide respiratory care services in New Hampshire as of January 1, 2004.

Dennis Desmond was sworn in. Mr. Desmond stated he is the director of pharmacy at Androscoggin Valley Hospital ("AVH") and has been in that position since December 2002.

Prior to that, specifically in the fall of 2000, Mr. Desmond served as the interim pharmacy director and executive vice president. Mr. Desmond stated that in these positions he knew The Respondent as both a respiratory care practitioner and pharmacist, and has known him since The Respondent was hired in 1999.

Mr. Desmond described how The Respondent's behavior was brought to his attention. In 2000, Mr. Desmond was alerted to The Respondent's behavior by pharmacy technicians, so Mr. Desmond increased his observations of The Respondent whenever he was in the pharmacy. As The Respondent was licensed he worked without supervision. Mr. Desmond stated that he was aware of previous issues regarding The Respondent that involved workplace substance abuse, but that he had no firsthand knowledge. Those issues had taken place in the 1980, before The Respondent was an employee of AVH.

Mr. Desmond testified to his observations of The Respondent's conduct in the pharmacy. He gave an example of observing The Respondent entering the I.V. room with a mortar and pestle and observed him grinding something. The Respondent left the room after Mr. Desmond went in

and out of the room. At another time, Mr. Desmond observed that The Respondent went into the narcotic cabinet, from there went to the restroom, and came back to the narcotic cabinet and replaced something. Mr. Desmond testified that this was unusual because there was no reason for The Respondent to be where the narcotics cabinet is and where outdated drugs and drugs that are to be destroyed are kept.

Mr. Desmond testified that these incidents occurred in the fall of 2000. See Exhibit 5.<sup>4</sup>

Mr. Desmond stated that he confronted The Respondent for an explanation of his behavior. The Respondent made it clear that he had not used any drugs from pharmacy inventory. The Respondent was terminated for his actions. However, with the assistance of his employer The Respondent agreed to participate in a PharmAssist program. Part of the agreement was attending meetings and random drug screening. The Respondent participated in counseling sessions and at times left work early to go to meetings. Upon recommendation of the Program Counselor, The Respondent returned to the workplace in January of 2001 and random drug screenings were conducted. Mr. Desmond testified that The Respondent was offered to participate in the PharmAssist program in lieu of his actions being reported to the licensing board.

Mr. Desmond stated this is an option for an employer when a good employee deserves a second chance.

Mr. Desmond explained that on December 15<sup>th</sup> a representative of the PharmAssist program contacted him. They discussed whether the hospital would rehire The Respondent if he agreed to participate in the program. However, as The Respondent had not spoken with the program's representative there was no evaluation to present to the hospital. This was finalized later. The Respondent signed an agreement with the program at the end of January 2001 and was rehired, but not full time. The agreement stated that if The Respondent continued to do well, he would

eventually be a full time employee. Mr. Desmond testified that this agreement seemed like the right thing to do to help The Respondent turn things around.

Mr. Desmond explained that the PharmAssist program helps impaired health professionals get through an addictive situation and return in a safe professional capacity. He also testified that the actions of December 15<sup>th</sup> were considered to be disciplinary in nature. When asked whether The Respondent was taken back or rehired, Mr. Desmond clarified that The Respondent's status was a rehire because he was terminated.

In August of 2002, a random screening proved positive. As this was a second incident, Mr. Desmond testified that The Respondent was placed on administrative leave for a few hours because there was a concern expressed by the Human Resources Department that The Respondent may have protection under the Americans with Disabilities Act, ("ADA").

Upon being advised by hospital counsel that that there is no protection for The Respondent under the ADA, The Respondent was immediately terminated. The Respondent was paid until termination took effect on or about December 15<sup>th</sup>, 2002.

The Pharmacy Board conducted an investigation that concluded in a Settlement Agreement between The Respondent and the Board of Pharmacy. and signed by The Respondent on April 15, 2003.

Carl Rod was sworn in for testimony. Mr. Rod stated that he is employed as a respiratory care practitioner at Speare Memorial Hospital in Plymouth, NH, and has been a therapist for 33 years. In that capacity, he has served as a staff therapist, department director, in intensive care and in surgery.

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<sup>4</sup> Exhibit 5 – AVH Internal Memo from December 18 (formerly Exhibit 3).



Mr. Rod testified that he served on the Respiratory Care Practitioners Governing Board until recently and had been a board member when this matter came to the Board's attention. Mr. Rod explained that board members conducted personal interviews for licensure as part of the application process. Mr. Rod testified, based on his experience in reviewing applications, what the Board would consider material to a renewal application. Mr. Rod stated that trust is involved in the responses provided by the applicant. Mr. Rod expanded to state that although the form is generic, the individual should be responding truthfully, and that in this case, participation in NA or AA would be germane to the application.

Mr. Rod testified that most licensees are familiar with the consequences of falsifying information on any application and that most come forth with infractions on their initial application for board discussion. He stated that as it is part of the record, it is usually looked upon favorably as long as it is not a major issue.

Mr. Rod identified a document as the Position Statement of Ethics and Professional Conduct, effective 12/94 and revised March of 2000. Mr. Rod testified that the statement in the document that reads "to comply with state and federal laws which govern and relate to the practice" is relative to a respiratory care practitioner applicant that fails to provide information material to the application.

Mr. Rod testified that he is not a drug or alcohol abuse counselor, but it is his opinion in light of question four of the renewal application that the Board should have been made aware of any counseling or treatment and an applicant be forthcoming in a renewal application for Board review and consideration.

The exhibits originally marked as number four, (a memorandum, from Linda Arsenault) and, number eight (the Pharmacy Board Settlement Agreement) were withdrawn as they were based on witnesses who were not called.

The Respondent was sworn in and responded to basic questions of residence and employment. When shown the renewal application identified as exhibit three, The Respondent responded that he recalled filing the application with the Board.

The Respondent testified that he had responded “no” to question four on the application, which asks whether the applicant had been treated for misuse of any chemical substance which may impair ability to practice, and felt this was a truthful response. The Respondent explained further that the contract he signed with the PharmAssist program was counseling and not treatment of a condition. He stated that in agreeing to participate in the program, he was disinclined to go away to a treatment center and was opposed being sent away from his family. Thus an alternative program was created for his local participation in narcotics anonymous meetings.

When asked if in his mind, did he regard counseling as treatment for misuse, The Respondent answered that in his mind treatment constituted being under the care of a physician, and a detoxification program, if necessary. He stated that he attended meetings as an outpatient being counseled.

When asked if the question included “received counseling” would he have responded differently, the Respondent stated he would have had to say yes to that question as presented now.

As to question eight, concerning employment being denied in any health care institution, home health agency or educational institution been limited, suspended or revoked, The Respondent testified that he responded truthfully when he responded “no” to that question. The Respondent

testified to his understanding of the timeline. Only a day or two passed before the human resources department at AVH telephoned him to discuss the possibility of his return to work if he agreed to participate in a peer assistance program. The Respondent characterized the timeframe as not a month out of work, but that he knew within a day or two that he still had a job and his willingness to participate in the program undid the termination.

The Respondent testified that if he had clearly understood that he had been terminated, he would have answered question eight differently. The Respondent reiterated that in his mind he was never under treatment with the PharmAssist program, but participated in counseling for approximately six weeks. The respondent also testified that he did receive treatment when he spent 28 days in a treatment center in Minnesota in October of 2002, under the care of a physician.

Later, however, The Respondent testified that he met with a Ms. Durand once or twice. It was determined that a Mr. Chet Annis would be his counselor. The Respondent could not testify with any certainty as to what Mr. Annis' credentials were, except that he was working towards some credentialing. The Respondent stated that the counseling sessions were discussions of what tools are available to manage substance abuse and the behavior of a person trying to keep it in check. The Respondent testified that the Minnesota program offered peer group discussions much like discussions held with Mr. Annis. The Respondent agreed that his participation in such a program would be material to an application before this Board could assess the application.

When questioned whether he informed the Maine Pharmacy Board of being counseled and undergoing treatment in Minnesota when he applied to that board for licensure, The Respondent testified that the question never came up on the license or the application. When questioned if he has ever disclosed his disciplinary action from the New Hampshire Pharmacy Board to the

Maine Respiratory Care Practitioners Board, The Respondent testified that as of yet, he has not. He does not know if this is a question on Maine's respiratory care practitioner's renewal application.

The Respondent testified that he was aware of the code of ethics. He agreed that within the last 27 months he had been treated for a substance abuse problem as asked in question four. He testified that it had been his interpretation of question four not to read anything further into it. He stated that he views the PharmAssist and the Hazelton programs as different.

The Respondent later agreed that the Board should know when someone is renewing their license whether they have a substance-abuse problem. He agreed that this would be important information for the Board in their role of public protection.

In regard to his response to question eight on the renewal application, which asks whether the applicant for renewal has had employment or appointment in any health care institution, home health agency or educational institution been limited suspended or revoked, The Respondent explained that he saw the timeline of being unemployed for one day, and together with the phone call from the employer, The Respondent felt that they had reversed their decision and termination was not final.

The Respondent, however, could not recall the specific timelines or dates of when he was asked to turn in his badge, gather his personal belongings and sign up for COBRA insurance. The Respondent did recall that he received his severance and vacation pay, and testified that this usually happens when a person is terminated.

The Respondent stated that his response to question eight was as a result of his interpretation of the question and the situation as he saw it, which was not as being terminated. He testified that he considered himself unemployed, suspended or terminated as it was communicated that he

would be out for a while and then would be coming back. He considered the time between December 15<sup>th</sup> or 16<sup>th</sup> and January 29, 2001 as being a leave of absence. The Respondent affirmed that he never signed any paperwork requesting a leave of absence or any federal paperwork for the Family Leave Act. The Respondent affirmed that he was not working at the hospital from some time in December of 2000 until the end of January 2001.

The Respondent testified that it was his understanding that his responses to question eight on the Renewal Application Form were answered as he interpreted the question and had no reason to go beyond the responses he provided.

In response to the question of his interpretation of the word "treatment", The Respondent replied that in his mind treatment is going to a facility and being under the care of a physician.

The Respondent testified that he never thought that the pay he received in December of 2000 was a severance pay.

The Respondent testified about a photocopy of a check stub, verifying that it was dated January 7, 2001. The Respondent confirmed that it accounted for all his services. See Exhibit 6.<sup>5</sup>

The Respondent testified that the word "severance" was not on the document. He testified that this paycheck was just another in a series of paychecks, and as there was nothing special about it, he did not scrutinize it. The Respondent could not effectively refute the suggestion that the amount of this check was different as it accounted for all vacation time, sick time and overtime. He stated that he would have to look over the document carefully.

In his sworn testimony The Respondent agreed that the payment he received at the end of December, whether it was identified as all accrued time, compensated him for all he was entitled to under his contract, including sick time, vacation time, and overtime.

The Respondent testified that he did not renew his New Hampshire Respiratory Care Practitioner license for 2004-2005 because he moved out of New Hampshire with no intentions of returning to the state or to practice respiratory care in New Hampshire.

The Respondent also explained that he saw Mr. Kilcullen, of the PharmAssist program, as a go-between for impaired pharmacists and the Board of Pharmacy. When asked by the board member of his use of the phrase “impaired pharmacists”, and how could he not perceive himself as responding as an impaired practitioner on the renewal form, The Respondent testified that at the time of filling out the form, he was not impaired. The Respondent did not consider the 27-month overlap in his response because it had been his impression that the response is in the present tense.

When asked the timeline of his return to full time employment in 2001, The Respondent stated he was not sure why he started with part time hours and progressed over a period of three or so weeks to full time.

The Respondent testified that there was no question on the Maine Respiratory Care Practitioners Board’s Form that required disclosure of the Board of Pharmacy’s actions, and so he responded a hundred percent truthfully to all the questions. He further stated that he did not think the Pharmacy Board action in New Hampshire was germane to his Maine respiratory care license application.

The Respondent testified that in retrospect he would respond differently on the 2001 Renewal Application Form. The Respondent did not perceive the action taken by the Pharmacy Board as being something to disclose because he was not working in respiratory care. The Respondent stated that he had answered the questions as he interpreted them to be. He claimed that since the

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<sup>5</sup> Exhibit 6 – Pay stub dated 01/07/01

words treatment, terminated, limited or suspended are not on the form, his responses were done in good faith and appropriately.

### Closing

Attorney Bernhard noted chapter 328-F:23, IV, (a) clearly denotes a provision to provide material information and an explanation. To say that because the word “treatment” is not present, yet the phrase “treated for any misuse of chemical substance” is mincing words treated over counseling, especially when the only clear difference of treatment and counseling is that same kinds of activities, education and counseling occurred and the only clear difference identified by The Respondent was that one was supervised by a physician. The issue of termination is the same. Testimony and evidence determined that The Respondent ceased working on or about December 15<sup>th</sup>, 2000, for more than one month, and did not return in the exact capacity, and that he was compensated for all his accrued time. The word terminated may not be on the form however, like question four, the response was disingenuous. The intent of the statute requires a truthful response and all material information relative to that response be provided so that the board has all information possible to make a fair decision. In summation, Attorney Bernhard expressed her opinion that The Respondent is in violation of both, the ethical conduct standard of the AARC and the statute for failing to answer appropriately and providing material information that he had been through almost one year of counseling, and that he had been terminated and reinstated by the good graces of an employer who wanted to try and help him.

Attorney Haffer noted for the substance of this proceeding the statute empowers the board with disciplinary action on a licensee who has knowingly provided false information to the board.

Attorney Haffer argued that his client answered the question four as he interpreted the question to be and did not knowingly provide false information. Again, in response to question eight, his

client did not knowingly provide false information in that response and his client's perception of never being terminated may have misunderstood the action of his employer, only to see that action reversed with the promise of his job back. Attorney Haffer stressed that the board take no disciplinary action at all because there was no false information provided, and if it was, it was provided innocently as his client answered in good faith and he was not practicing as a respiratory care practitioner at the time. His client should be exonerated.

### **Findings of Fact**

The Respondent was issued conditional license # 0395 in January 24, 1993 to December 31, 1996 for the practice of respiratory care. The Respondent satisfied the requirements of the conditional license, and was issued an unrestricted license for the practice of respiratory care in January of 1997. On November 16, 2001, The Respondent's renewal application was received. His renewal application reflects that he responded "NO" to all the questions on the application and his license was renewed for the period January 1, 2002 to December 31, 2003.

In October 2002, The Respiratory Care Practitioners Governing Board was made aware of action taken against The Respondent by the Board of Pharmacy, namely the investigation and subsequent action by the Board of Pharmacy. This Board learned that the timelines of the Board of Pharmacy's investigation and conclusion by settlement agreement occurred was in conflict with the responses and timelines provided in The Respondent's 2001 renewal responses. In the period in question, the Respondent's 2001 renewal application did not reflect that he:

- (1) had been the subject of an investigation by another licensing board;
- (2) had signed a settlement agreement;



- (3) had been terminated from employment as a pharmacist;
- (4) had been reinstated by his employer with the condition that he complete a drug treatment program that included support.

The Governing Board determined that they should initiate an informal investigation pursuant to RSA 328-F:23, I, and seek the assistance of the Administrative Prosecutions Unit of the Justice Department. A Report of Investigation dated December 10, 2003 was presented to the Board for their meeting scheduled for December 11, 2003. The Governing Board accepted the report's recommendation that a hearing be scheduled to determine if there is cause for disciplinary action. During the time of the Respiratory Care Practitioners Governing Board investigation, the office received updated information reflecting the Respondent's change of address. In late September of 2003, the 2003 renewal applications went out to active licensees, including to the Respondent. The Respondent completed an application that was stamped as received October 8, 2003 in the office. The Respondent indicated on the form that he was not renewing his license and signed and dated the form as required. The Respondent's license expired December 31, 2003. On the renewal form, The Respondent provided out-of-state workplace information and home and work phone numbers, which indicated the Respondent was working as a respiratory care practitioner in Maine.

In particular, the Board finds that The Respondent's conduct is in is in violation of RSA 328-F:23, IV (a), in that he failed to accurately disclose facts material to the (renewal) application in his responses. The board finds that the Respondent is in violation of RSA 328-F:23 IV, (d) in that he engaged in dishonest and unprofessional misconduct. The board finds the Respondent in

violation of RSA 328-F:23 IV, (k) by his failure to adhere to the recognized standard of ethics of the profession.

### **Rulings of Law.**

Pursuant RSA 328-F:23, IV, the Board

may take disciplinary action against any person licensed by it upon finding that the person:

(a) Has knowingly provided false information during any application for professional licensure or institutional privileges, whether by making any affirmative statement which was false at the time it was made or by failing to disclose any fact material to the application ...

(d) Has engaged in dishonest or unprofessional conduct, or has been grossly or repeatedly negligent in practicing their profession in performing activities ancillary to their occupation or any particular aspect or specialty thereof, or has intentionally injured a patient while practicing or performing such ancillary activities...

(k) Has failed to adhere to the recognized standards of ethics of their profession.

The board identified three principles in the Statement of Ethics and Professional Conduct of the American Association for Respiratory Care (AARC). In the conduct of professional activities the Respiratory Therapist shall be bound by the following ethical and professional principles, in which the Respiratory Therapist shall:

- Demonstrate behavior that reflects integrity supports objectivity and fosters trust in the profession and its professionals.
- Comply with state laws that govern and relate to the profession.

It is this Board's opinion that The Respondent did not adhere to these precepts.

The Board finds that the Respondent thus committed gross misconduct within the meaning of RSA 328-F:23, for this and failing to include facts material to his 2001 Respiratory Care Practitioners License renewal.

### **Discussion and Conclusion**

In January 1993, The Respondent was issued a Conditional Respiratory Care Practitioner's License. In January 1997, The Respondent was issued an unrestricted Respiratory Care Practitioner's License. The Respondent also held a license issued under the Board of Pharmacy. In 1999, The Respondent was hired by Androscoggin Valley Hospital ("AVH"). The Respondent was employed as a pharmacist and a respiratory care practitioner. In the fall of 2000, AVH became concerned with The Respondent's behavior. On December 15, 2000, The Respondent was terminated by AVH. However The Respondent was advised that AVH that would allow him to return to work at AVH on the condition that he would participate in PharmAssist, a drug treatment program. On January 29, 2001, The Respondent was re-hired by AVH initially in a part-time capacity, which turned into full time.

In the fall of 2002, a random drug testing proved positive. The Respondent's employment was terminated and the Board of Pharmacy conducted an investigation which concluded in a Settlement Agreement. The New Hampshire Board of Pharmacy alerted the Respiratory Care Practitioners Governing Board of their action.

In November 2001, The Respondent submitted his license renewal application form to the Office of Licensed Allied Health Professionals. The license renewal application form requested information that encompassed the prior twenty-seven (27) months for each question. Specifically, the form stated, in pertinent part: "In the past 27 months have you:" In answer to question four (4), which asks whether during that time The Respondent has "Been treated for any misuse of any chemical substance, which might impair his ability to practice?", The Respondent marked the "no" column. In answer to question eight (8), which asks whether during that time period The Respondent has "Had employment or appointment in any health care institution,

home health agency or educational institution been limited, suspended, or revoked?”, The Respondent marked the “no” column.

While these issues were determined to be falsifying or negligence in his responses on the renewal application, The Respondent’s quality of care was not addressed. The Board finds The Respondent’s testimony at the hearing to be disingenuous and self-serving.

The Board finds that at any time prior to submitting his license renewal application, The Respondent could have contacted either the Office of Licensed Allied Health Professionals, or the Respiratory Care Practitioners Governing Board to determine what the correct responses should have been on the application and in light of The Respondent’s circumstances.

In assessing whether the Respondent is guilty of professional misconduct the board concluded that there is sufficient evidence to support disciplinary action. The Board finds that The Respondent withheld appropriate responses to questions four (4) and eight (8).

The Board finds that The Respondent provided incomplete and inaccurate material information on his license renewal application.

The Board finds that The Respondent failed to disclose facts material to the license renewal application. See RSA 328-F:23, IV, (a) (supp 1998).

The Board finds that The Respondent engaged in dishonest or unprofessional conduct. See RSA 328-F:23, IV, (d) (supp 1998).

The Board finds that The Respondent failed to adhere to the recognized standards of the profession. See RSA 328-F:23, IV, (k), (supp 1998).

The issue before the Board is the administrative process as related to the practice of respiratory care.

Before the Board is the issue of The Respondent's credibility. It is the board's consensus that the Respondent was negligent in his failure to provide complete and truthful material information on questions four and eight on the 2001 Renewal Application Form.

The Respondent was negligent in failing to report that he had been the subject of another board's investigation and action, and was negligent in reporting termination as required in 328-F:21, (supp 1998). The Respondent was negligent in his actions and, in his disregard of the standards of the American Association of Respiratory Care.

After reviewing the exhibits and testimony, and considering the argument of the parties, the Board decided to adopt the recommended decision, as modified below.

**THEREFORE, IT IS ORDERED**, that Richard R. Belanger is reprimanded. Pursuant to RSA 328-F:23, V, The Respondent must fully satisfy any condition contained in this order before the Board will consider the reinstatement of a Respiratory Care Practitioners license to The Respondent. The recommended decision as stated below is adopted as the decision of the Board in this proceeding; and,

**IT IS FURTHER ORDERED**, that The Respondent cannot apply for reinstatement of his Respiratory Care Practitioners license for a period of five-years commencing from the effective date of this order.

**IT IS FURTHER ORDERED**, that within ten (10) days of the effective date of this order, as defined further, the Respondent shall furnish a copy of the Order to any current employer for whom the Respondent performs services which requires knowledge and training in the science of respiratory care, or directly or indirectly involves access to drugs, and to any

agency, authority, or professional association which licenses, certifies, or credentials respiratory care practitioners, with which the Respondent is presently affiliated.

**IT IS FURTHER ORDERED**, that for a period of five (5) years from the effective date of this order, the Respondent shall furnish a copy of the order to any employer to whom the Respondent may apply for work which requires knowledge and training in the science of respiratory care, or directly or indirectly involve access to drugs; and to any agency, authority, or professional association which licenses, certifies, or credentials respiratory care practitioners, to which the Respondent may apply for professional privileges or recognition.

**IT IS FURTHER ORDERED** that The Respondent complete a medical ethics course as approved by the board. The Respondent shall provide documentation of satisfactory completion of the medical ethics course within six (6) months prior to applying for reinstatement. This course shall be independent of and in addition to any continuing education for the purpose of reinstatement of his license.

**IT IS FURTHER ORDERED** that The Respondent shall be permitted to apply for reinstatement of his license after such time that he has completed the reinstatement requirements as set forth in administrative rules, to the board's satisfaction and, provide documentation of completion of all continuing education requirements to the Respiratory Care Practitioners Governing Board.

**IT IS FURTHER ORDERED**, that The Respondent provides 12 hours of continuing education in the practice of respiratory care for every year prior to the reinstatement of his license from the date of this order forward.


**IT IS FURTHER ORDERED** that The Respondent meets all other conditional, reinstatement or initial requirements as New Hampshire law requires beyond the conditions as stated above, to re-enter the profession.

**IT IS FURTHER ORDERED**, that failure to comply with any of the conditions imposed by this order or the violation of any federal, state, or local respiratory care related laws or regulations may result in the time period being extended before The Respondent can apply for reinstatement of his license to practice respiratory care in New Hampshire.

**IT IS FURTHER ORDERED**, that a copy of this order shall be mailed to the last business address provided by the Respondent's Counsel to the Board via certified mail, return receipt requested, and that the Board shall separately notify the Federal Healthcare Integrity Protection Data Bank (HIP-DB), the National Board for Respiratory Care Database and, any state regulatory respiratory care licensing board in which The Respondent holds or has ever held a license.

**BY ORDER OF THE BOARD \*//**

Date: August 17, 2004

  
James R. Daley, RCP, Chair  
Respiratory Care Practitioners Governing Board  
Office of Allied Licensed Health Professionals